

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License Agreement") is made the \_\_\_ day of \_\_\_\_\_, 2005, by and between the NATIONAL RAILROAD PASSENGER CORPORATION (aka Amtrak), a corporation organized under the rail Passenger Service Act and operating as a District of Columbia corporation ("Lessee"), and TALLAHASSEE FILM SOCIETY, INC. a non-profit, [Florida?] corporation, with offices at \_\_\_\_\_ ("Licensee").

WHEREAS, pursuant to the lease agreement dated April 29, 1999 ("Lease"), attached hereto as Attachment A and incorporated herein, Lessee is permitted by Leon County, Florida ("Lessor") to use, in connection with Lessee's business of providing intercity rail passenger services, certain real property of Lessor (hereinafter referred to as the "Premises") located in Tallahassee, Florida;

WHEREAS, Licensee desires that Lessee grant to Licensee a license to use certain portions of the Premises (the main waiting room, the restrooms adjacent thereto, and the parking lot), as more particularly depicted on Attachment B, attached hereto and incorporated herein (such portions of the Premises hereinafter referred to as the "Licensed Area"), for the exhibition of films.

WHEREAS, Lessee is willing to grant to Licensee a license to use the Licensed Area for such purpose, subject to the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

### 1. CONSENT OF LESSOR

*Appendix D* The parties acknowledge that the Lease does not permit Licensee to enter into this License Agreement. Accordingly, and notwithstanding any other provision of this License Agreement, this License Agreement shall be null and void unless a certain "Consent and Waiver of Lessor and Agreement" ("Consent and Waiver") is executed by Lessee, Licensee, and Lessor on or about the date of this License Agreement. This License Agreement shall be subject to such fully executed Consent and Waiver, which is incorporated herein by reference.

### 2. PERMITTED USE

Pursuant to the terms herein, Lessee hereby grants to Licensee the non-exclusive, revocable right to use the Licensed Area from time to time solely for the in-door exhibition of films to the public and for outdoor parking and rest room use as reasonably necessary in connection with such exhibition ("Permitted Use"). Licensee may charge for such exhibition and retain the

revenues therefrom. Licensee shall not permit any more than fifty (50) persons at one time to view any film it exhibits in the Licensed Area. The Permitted Use does not include, without limitation, the right to sell or otherwise provide food or beverages or any other items in the Licensed Area. The statement in this License Agreement as to the Permitted Use to be made of the Licensed Area will not be deemed or construed to constitute a representation or warranty by Lessee that such Permitted Use of the Licensed Area is lawful or that the Licensed Area is suitable for such Permitted Use.

### 3. HOURS OF USE

Licensee may not use the Leased Area within two (2) hours before any scheduled train departure from the Premises or within two (2) hours after any scheduled train arrival to the Premises. Licensee shall be responsible for keeping itself informed of the applicable train schedule.

### 4. TERM

This License Agreement shall commence on the date of this License Agreement hereinabove set forth or the date of execution by Lessee, Licensee and Lessor of the Consent and Waiver Agreement, whichever is later, and, unless sooner terminated in accordance with the terms hereof, shall terminate upon the expiration or termination of the Lease. Either party may terminate this License Agreement upon thirty (30) days written notice to the other party.

### 5. SECURITY; CLEANING AND LITTER CONTROL

Licensee shall provide security for the persons, vehicles and other property that are on the Licensed Area in connection with Licensee's use of the Licensed Area. Lessee may keep the Licensed Area open at all such times as it desires and locked at all such times as it desires. Lessee shall provide one (1) access/entry key for the sole use of Licensee's president to open the station building for use by Licensee of the Licensed Area for the Permitted Use. Licensee shall ensure that its president shall retain and keep secure the access/entry key at all times during the term of this License Agreement and return the access/entry key upon expiration or termination of this License Agreement. In the event said key is lost or stolen, Licensee shall immediately inform Lessee's police (telephone 1-800-331-0008) (and, if stolen, the local police); in such event, any costs or expenses incurred by Lessee to change the locks at the Premises or replace the key shall be paid to Lessee by Licensee upon demand. Immediately following the completion of any film exhibition (or multiple, consecutive exhibitions), Licensee shall (i) thoroughly clean, at its own cost and expense, all indoor portions of the Licensed Area, (ii) remove from the Licensed Area all litter, trash and garbage generated in connection with Licensee's use of the Licensed Area, (iii) remove from the Licensed Area all equipment and other property that it brought onto the Licensed Area, (iv) cause all persons on the Premises in connection with Licensee's use of the Licensed Area to exit the Premises and remove their personal effects, (v) lock the station building if the station building was locked upon Licensee's arrival, and (vi) leave the Licensed Area in a good, tenantable, and safe condition.

## 6. LESSEE'S OPERATIONS: PROTECTION OF PROPERTY.

Licensee shall, at all times, exercise the license granted herein in such manner as to avoid interference with Lessee's railroad operations. Furthermore, Licensee hereby recognizes and acknowledges that the said license is subordinate to Lessee's obligation (as owner or user of the railroad property herein) to passengers and employees, to owners and shippers of freight and baggage, to the general public and to operating railroads. Licensee, its officers, employees, agents and servants, shall comply fully and promptly with Lessee's regulations as may be provided to Licensee, with the requests, directions and instructions of Lessee's personnel, if any, assigned to facilitate Licensee's activities hereunder and with such security clearance procedures as Lessee or other appropriate authority may reasonably require. Licensee shall take all necessary safety and other precautions as may be reasonably required to protect property and persons from damage, injury or illness arising out of its activities related to this License Agreement or use of the Licensed Area. Licensee, shall, at its sole cost and expense, repair (or replace, if the property cannot be repaired to its former condition) any property of Lessee or Lessor, including, without limitation, the Licensed Area, that is damaged by Licensee, or its invitees, employees, agents, servants, contractors or subcontractors or, at Lessee's option, pay Lessee or Lessor, as directed by Lessee, the cost of such repair or replacement. Licensee agrees and warrants that it will comply strictly with all applicable local, municipal, state and federal laws, orders, and regulations, including, without limitation, securing any necessary permits or licenses (including, without limitation, all necessary licenses from film distributors), and shall pay the cost thereof. Without limitation of any other provision of this License Agreement, Licensee covenants that Licensee shall not use the Licensed Area for any purpose that is unlawful, excessively noisy, or contrary to any applicable law, or county or municipal ordinance.

## 7. INDEMNIFICATION.

To the fullest extent permitted by law, Licensee shall and does indemnify and hold harmless Lessee and Lessor, their respective officers, directors, employees, agents, servants, contractors, successors, assigns and subsidiaries (collectively "Indemnitees"), irrespective of their negligence or fault, and at Lessee's option, defend them from and against any and all losses, liabilities, damages, penalties, fines, forfeitures, claims, demands, judgments, actions or causes of action, suits at law or in equity, costs and expenses (including attorneys' and other professional fees) paid, incurred or suffered by any Indemnitee arising from or in connection with the use by Licensee, its employees, invitees, agents, servants, contractors, subcontractors, or any other person acting for or by permission of Licensee, of the Premises or any part thereof or any other property of Lessee or Lessor or arising from or in connection with this License Agreement or the exercise of the license granted hereunder. The foregoing obligation shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation, or benefits payable by or for Licensee or any contractor or subcontractor. Licensee's obligations pursuant to this Section shall survive any termination of this License Agreement with respect to any act, omission or occurrence or any actual or contingent liability arising prior to such termination. As used in this Section and Section 9, the term "Lessee"

includes the National Railroad Passenger Corporation, its subsidiaries, all commuter agencies and other railroads and their respective, officers, directors, employees, agents, servants, successor, assigns and subsidiaries.

#### 8. RELEASE.

Irrespective of their negligence or fault, neither Lessor nor Lessee, nor their respective officers, directors, agents, servants and employees shall be liable for, and Licensee hereby releases and relieves Lessee and Lessor, and their respective officers, directors, agents, servants and employees from liability in connection with any and all loss of life, personal injury, bodily injury or damage to property, or loss or interruption of business occurring to Licensee, its agents, servants, employees, contractors or subcontractors, in or about or arising out of the Premises, from, without limitation, (a) any fire, other casualty, accident, occurrence or condition in or upon the Premises; (b) any defect in or failure of plumbing, sprinkling, electrical, heating or air conditioning systems or equipment, or any other systems and equipment of the Premises; (c) any steam, gas, oil, water, rain or snow that may leak into, issue or flow from any part of the Premises from the roof, drains, pipes or plumbing, sewer or other installation of same, or from any other place or quarter; (d) the breaking or disrepair of any installations and equipment; (e) the falling of any fixture or any wall or ceiling materials; (f) broken glass; (g) latent or patent defects; (h) the exercise of any rights by Lessee under the terms and conditions of this License Agreement; (i) any acts or omissions of other persons; (j) any acts or omissions of Lessee or Lessor, their respective agents, servants and employees; and (k) theft, act of God or public enemy, injunction, riot, strike, insurrection, war, court order, or any order of any governmental authorities having jurisdiction over the Premises. To the maximum extent permitted by law, Licensee agrees to use the Licensed Area, as Licensee is herein given the right to use, at Licensee's own risk.

Neither Lessor nor Lessee shall be liable to Licensee or to any insurance company (by way of subrogation or otherwise) insuring Licensee for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under worker's compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of Lessee or Lessor, their agents or employees. In the event that such waiver of subrogation is not available to Licensee unless through the payment of additional premium therefor, such party shall pay the additional premium necessary to obtain such waiver.

#### 9. INSURANCE.

Licensee shall obtain, at its sole cost and expense and as a condition precedent to the exercise of any part of the license granted herein, the following insurance coverage in such form and issued by such insurance company(ies) as shall be satisfactory to Lessee/ <sup>and</sup> Licensee shall <sup>Lessee</sup> evidence such coverage by submitting certificate(s) of insurance prior to its exercise of any part of the license granted herein. All insurance shall be procured from insurers authorized to do business in Florida. The insurance specified below shall provide for thirty (30) days prior written notice to Lessee in the event coverage is substantially changed, canceled or non-renewed.

All insurance specified below shall remain in force throughout the term of this License Agreement and until all of Licensee's personnel and equipment has been removed from railroad property. The required insurance is:

A commercial general liability insurance policy issued to Licensee and covering liability imposed upon Licensee with respect to Licensee's activities and all obligations assumed by Licensee under the terms of this License Agreement. Independent contractors and contractual liability coverage is to be included, and all railroad exclusions are to be deleted. The policy shall name National Railroad Passenger Corporation and Leon County, Florida, as additional insureds. Coverage under this policy, or policies, shall have limits of liability of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury, personal injury, and property damage (including loss of use) liability.

If any liability insurance specified above shall be provided on a claims-made basis, then in addition to the coverage requirements above, such policy shall provide that: (i) The retroactive date shall coincide with or precede Licensee's start of activities (including subsequent policies purchased as renewals or replacements); (ii) The policy shall allow for the reporting of circumstances or incidents that might give rise to future claims; (iii) Licensee will use its best efforts to maintain similar insurance for at least three (3) years following completion of its activities, including, without limitation, the requirement of adding National Railroad Passenger Corporation and Leon County, Florida as additional insureds; and (iv) If the insurance is terminated for any reason, Licensee agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from its activities performed in connection with this License Agreement.

#### 10. FORCE MAJEURE.

Lessee may, with or without notice (provided that Lessee shall use reasonable efforts to provide notice), postpone or cancel the exercise by Licensee of the license granted herein for causes beyond Lessee's control that materially prevent or render infeasible Lessee's performance hereunder. Such causes shall include, without limitation, the laws, regulations, acts, demands or interpositions of any federal, state or local government agency, Acts of God, strikes, fire, flood, weather, war, acts of picketing, rebellion, insurrection or terrorism or any other cause beyond Lessee's control whether similar or dissimilar to the foregoing. In the event of postponement or cancellation pursuant to this Section 11, Lessee shall have no liability for loss or damage of any kind incurred or claimed by Licensee as a result of such postponement or cancellation.

#### 11. ENTIRE AGREEMENT.

This License Agreement and the Consent and Waiver Agreement represent the entire agreement of the parties hereto with respect to the subject matter hereof and may not be amended except by agreement in writing duly signed by authorized representatives of the parties hereto

and Lessor.

## 12. NOTICES.

All notices by either party to the other shall be made in writing by hand delivery or depositing such notice in the registered or certified mail of the United States of America, postage prepaid, and such notice shall be deemed to have been delivered and received on the date of such hand delivery or three business days after depositing the correctly addressed notice in the registered or certified mail.

All notices to Lessee shall be mailed to:

National Railroad Passenger Corporation  
30<sup>th</sup> Street Station  
4 South  
Philadelphia, PA 19104  
Attention: Vice President Real Estate Development

All notices to Licensee shall be mailed to:

Tallahassee Film Society, Inc.

\_\_\_\_\_, Florida \_\_\_\_\_  
Attention: President

The parties from time to time may designate in writing changes in the address stated above.

## 13. CHOICE OF LAW.

The laws of the State of Florida shall govern this License Agreement.

## 14. JURISDICTION.

To the extent permitted or required by applicable law, any litigation arising out of this License Agreement shall be brought in the United States District Court for the district in which the Premises is located.

## 15. ASSIGNMENT.

Licensee shall not assign or otherwise transfer this License Agreement, in whole or in part, or any of its rights or obligations hereunder.

## 16. NONDISCRIMINATION.

Licensee shall comply with the same obligations as those with which Lessee is required to comply under Section 19 of the Lease and Lessee shall have the same rights with respect to Licensee and this License Agreement that Lessor has with respect to Lessee and the Lease under said Section 19.

#### 17. DEFAULT.

It shall be a default hereunder ("Default") if Licensee shall (i) fail to make any payment due hereunder within ten (10) days after Licensee receives written notice from Licensee that such payment is past due; or (ii) fail to observe or perform any obligation of Licensee hereunder within ten (10) days after Licensee receives written notice from Lessee setting forth in reasonable detail the nature and extent of the failure and identifying the applicable License Agreement provision(s), or within such longer period of time as may be reasonably necessary for such cure so long as Licensee commences such cure within said ten-day period and thereafter diligently prosecutes such cure to completion. In the event of Default, Lessee may, at any time thereafter, with or without further notice or demand, terminate this License Agreement and pursue any other remedies it may have administratively, at law or in equity. The rights and remedies granted herein or by law or equity are separate and no one of them, whether or not exercised, shall be deemed to exclude other rights and remedies.

#### 18. TAXES.

Licensee shall pay any and all taxes that may be assessed and levied upon Lessor, Lessee or Licensee with respect to Licensee's use or occupancy of the Licensed Area.

#### 19. ALTERATIONS; SIGNS

Licensee shall not make any alterations to the Licensed Area. Licensee shall not place any advertising or signs on the Licensed Area.

#### 20. UTILITIES.

To the extent reasonably necessary for its Permitted Use of the Licensed Area, Licensee may use those utilities as are provided and available to Lessee in the Licensed Area without charge (except third party charges for use of payphones), provided, however, in no event shall Lessee be liable to Licensee for any disruption or interruption in the provision of such utilities, irrespective of the cause.

## 21. AS-IS CONDITION.

Licensee accepts the Licensed Area in "as-is" condition, with all latent and patent defects. Lessee shall not be obliged to make any improvements or repairs to the Licensed Area or to provide any services thereto, except as provided in Section 21. Lessee shall not be liable or responsible to Lessee in any manner for the condition of the Licensed Area, including, without limitation, the presence of any hazardous substances.

## 22. RECORDING.

Neither party may record this License Agreement, nor any short form or memorandum thereof.

## 23. LICENSE ONLY

This License Agreement grants a license only, revocable or terminable under the terms and conditions herein, and does not grant any lease, easement or other interest in real estate.

## 24. LEASE.

Except as otherwise provided in this License Agreement, this License Agreement is subject and subordinate to the Lease. In its exercise of the license hereunder, Licensee shall not do, or permit to be done, anything that would cause Licensee to be in default or breach of any provision of the Lease. Lessee is not assuming, and shall not be responsible or liable for Lessor's obligation to observe or perform any agreement or obligation on the part of Lessor under the Lease or imposed on Lessor by law with respect to the Premises. This License Agreement does not create any contractual relationship or privity of contract or estate as between Lessor and Licensee.



ATTACHMENT A

Lease

Attachment # 3  
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IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be duly executed by their authorized officers as of the day and year first above written.

**NATIONAL RAILROAD PASSENGER  
CORPORATION**

BY: \_\_\_\_\_  
Name:  
Title:

**WITNESS:**

BY: \_\_\_\_\_  
Name:  
Title:

**TALLAHASSEE FILM SOCIETY, INC.**

BY: \_\_\_\_\_  
Name:  
Title:

**WITNESS:**

BY: \_\_\_\_\_  
Name:  
Title:

**ATTACHMENT B**

**Licensed Area**

Attachment #

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of